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THE RAILROAD RATE BILL.

SPEECH

OF

HON. SAMUEL W. McCALL,

OF MASSACHUSETTS,

IN THE

HOUSE OF REPRESENTATIVES,

FRIDAY, FEBRUARY 2, 1906.

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WASHINGTON.

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SPEECH
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HON. SAMUEL W. McCALL.

The House being in the Committee of the Whole House on the state of the Union and having under consideration the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission—

Mr. McCALL said:

1874
Mr. CHAIRMAN: If the pending bill made an effective response to public opinion upon the railroad question, it would deal in the most comprehensive and the most particular terms with rebates or favored rates, whether given directly or in any of the indirect forms in which they have been extended. A secret rate lower than the rate which is published for all or valuable concessions given shippers, under whatever subterfuge, are obnoxious to the law, which contemplates not merely a just and reasonable but an equal rate. What is demanded to meet the real evil, and what was demanded by public opinion until its attention was diverted to an utterly irrational and haphazard remedy, is legislation making clear beyond question the right of every man to equal treatment and giving him the amplest remedy for every violation of his right. The private car, refrigerator car, the industrial switch, receiving a part of the through rate as if it were an independent line, every instrument of favoritism and injustice, had justly received public condemnation. These evils were dealt with in general terms by the amendment known as the "Elkins Act." But that act needed to be broadened; it needed to be made more specific, so that it should prohibit unequal treatment under whatever guise, and then it needed to be enforced, not merely by a fine, but in clear cases of evasion by imprisonment both for the giver and the receiver of the secret rate. If a law had been passed upon these lines one year ago, every demand of what can justly be called "public sentiment" would have been satisfied. The Republican national convention in 1904 made no declaration whatever regarding railroads. The Democratic convention declared against rebates and discrimination. Rebates and discriminations in all their protean forms were the real evil. The President in his annual message declared against them, but he promulgated as a remedy that the Commission be given authority to fix railroad rates whenever a complaint should be made.

The leading authority upon railroad economics in the British Empire said, not long ago, of the bill passed by the House last winter in line with the President's recommendation, that it would have done no more to stop rebates than would the reenactment of Magna Charta. I endeavored to point out at that time upon this floor that there was no possible relation between

the giving of rebates and the fixing of rates by a commission, and that a railroad could as easily give a criminal rebate from a rate fixed by a commission as from one fixed by itself. And the advocates of this legislation have refrained from penetrating the awful mystery and have discreetly permitted the relation between rebates and commission rate making to remain a secret until this day.

The issue of political rate making in the Congress of the United States is not the result of any evolution or of any expression of public opinion, but it is a mere fungus growth. It sprung up in a night. It grew out of the Presidential non sequitur, and I am very willing to concede that a non sequitur is something in which a busy man may sometimes indulge. If teachers of logic are looking for a perfect example of a non sequitur for their classes, I commend them to the statement of the evils and the statement of the remedy contained in the President's annual message to Congress in December, 1904.

And at once political rate fixing became a burning issue--I mean in Congress, but not before the people, for there has been no election since it was so suddenly and so illogically sprung upon the country. Mr. Bryan, the once idolized leader of his party, for a time dethroned, but summoned back again by the overwhelming exodus of Silver Democrats at the last election, Mr. Bryan, who might have brought action for infringement, generously hailed political rate making as a decisive step toward his cherished dogma, Government ownership, and he fixed upon it the stamp of his emphatic approbation. He looked upon it as his own child, and not long ago, as he was starting around the globe, in almost the last words he uttered upon American soil, with a paternal solicitude he commended the bantling to the tender care of the President.

The Democratic party followed its leader and took up the cause of rate making with enthusiasm and unanimity. As for the Republicans, rate fixing had been made party policy by our just elected President, and, logic or no logic, we were expected to get in line. This is the genesis of the public opinion upon this point. If any political platform adopted prior to the President's message by either of the great parties suggested any form of rate making by the National Government as a remedy for discrimination or for any other purpose, I trust some gentleman will cite it.

So far as favoritism is concerned, in every one of its forms I am opposed to it. I would have you enact against it the most drastic law which ingenuity could devise. And I would have the right of every man to a just, reasonable, and equal rate taken to the courts at the expense of the Government, in the first instance, and ultimately of the railroads, if they were held to be in the wrong, under every effective species of remedy, taken to that forum where Anglo-Saxon freedom has won its noblest triumphs. For my part I prefer the natural and beneficent liberty of the courts to the cast-iron regulations of a commission. I would encourage proceedings such as that in Scotland, which, for a differential given in good faith, took from a railroad company in damages and costs about \$700,000. But in this measure we are neglecting to follow the vital line and paltering with the highest interests of the country. I am for every feature of your bill aimed at discrimination, and I would favor far more stringent features; but your rate fixing, which

is the substantial part of your bill, is economically as vicious as it is illogical and I propose to submit to you some reasons why I can not give my support to a measure which I fear you have already almost unanimously determined to enact.

And I shall at the outset dispose of two or three preliminary propositions. It is claimed that it was intended to confer the rate-making power when the interstate act was passed, and that the Commission for ten years exercised it. The facts are that the framers of the act declared in the debate that it did not confer the rate-making power; the courts as early as 1890 decided that the power did not exist; there was no general belief that it had been conferred, and although the Commission assumed to pass on the relative reasonableness of rates in a few cases, when it attempted to exercise the power in a really important case, its authority was challenged, and the Supreme Court finally decided that the act did not confer the power of fixing a rate.

Of the same character as the misapprehension which I have referred to is the pretense that the rate-fixing power in this bill is altogether exceptional in its character—not for every-day use, but likely only to be exercised upon rare and great occasions. Gentlemen simply run away from their proposition, and it is little cause for wonder. Their bill confers the power to revise all the rates in the country and to substitute other rates for them upon the happening of a mere formality. In the maximum-rate case thousands of rates were involved, and there is the testimony of a high officer of one of the railroads concerned that the reduction ordered by the Commission in that case would have cost the railroads \$3,000,000 a year. It would have meant bankruptcy to some of the railroads. But if you need a decision of a court upon so plain a proposition, read what the Supreme Court said when it passed upon the asserted power which is similar to that granted in your bill:

If—

Said the court, in 167 United States, 510—

the power existed as is claimed there would be no escape from the conclusion that it would be within the discretion of the Commission, of its own motion, to suggest that all the interstate rates on all roads of the country were unjust and unreasonable, notify the several roads of such opinion, direct a hearing, and upon such hearing make one general order reaching to every road and covering every rate.

It is clear that the present bill gives the Commission, upon the mere formality of somebody's filing a complaint, power to set aside great groups of rates and to substitute other rates for them. The pretense that it contemplates only the challenging here and there of a single rate demonstrates clearly that the advocates of this measure do not understand it or that they do not dare avow its purpose. On the theory that a mere isolated rate is to be tried here and there your bill amounts to nothing from your own standpoint, for, as was said by a railroad president the other day, it would take hundreds of years for your court to sit in judgment upon each of the billion or more rates in the country. Indeed, the new rates would increase faster than your Commission could decide them. I shall therefore assume that this measure is a rate-fixing scheme of the most sweeping character.

The fundamental question, then, involved is, Do we want rate making by a Government board? The burden of proof

rests upon the man who contends that such a system should be substituted for the system at present in force. It is upon the advocates of this bill to show that we should set aside the American system of fixing freight rates which has given us rates hardly half as high as are paid by the other great countries of the world, although our railroads pay their labor twice the wages paid in the other countries. The burden of proof, I say, rests heavily upon those who would radically substitute for our present system the foreign system of fixing rates by the Government. Magnificent platitudes about eminent domain and our duty to exercise the great commerce powers of the Constitution will not sustain the burden. Give us a reason why we should discard a system which has been a success for a system which has been a failure.

The experiment has been thoroughly tried. We have the result of the experience of other nations and of our own. You will find the experience of the great countries of the world admirably set forth in a book by Professor Meyer upon Government Regulation of Rates. If Professor Meyer is wrong in any of his important statements, I have not observed that those who differ with him have pointed out his errors. And my friend from Pennsylvania [Mr. SIBLEY], in his masterly speech yesterday, left little to be said upon this point.

Take first the experience of Germany, which for more than a quarter of a century has had rates fixed by the Government. In the case of Germany, however, the Government owns the railroads and has all the rights which go with the proprietor and also with the state. The state is simply managing its own property and manfully paying the bills. In that country the rates were made upon a mileage basis, and this difficulty was at once encountered. If the rates were high enough per mile so that traffic hauled for a short distance would yield a net revenue, they would be so high for a long haul as to be practically prohibitive of long-distance traffic; and on the other hand, if the mileage rate were so low that merchandize could be carried a great distance profitably, the short-distance traffic would be carried at a loss. The German Government made repeated attempts to give concessions from the mileage rate in favor of long-distance traffic. For instance, it made the so-called "tapering rate," that would permit the wheat of eastern Germany to find its way by rail to the great manufacturing centers along the Rhine. Saxony, in the center of Germany, also produces wheat, and the Saxon millers and landowners contended that they had a "natural right" to the market in their neighborhood, and that it was a discrimination for the Government to bring the wheat of eastern Germany at an exceptionally low rate to western Germany in competition with the wheat and flour of Saxony. The German Government is a reasonably autocratic Government, and yet, resist as it would, it was finally compelled to yield and to reestablish the mileage rate upon the eastern wheat; and the German minister declared that 125 miles was the maximum distance at which wheat could be carried by rail in Germany for domestic consumption. The same minister said that for most purposes of trade eastern Germany and the Rhine country were farther apart than Germany and New York or Germany and Buenos Ayres.

The same thing was illustrated in the raising of sugar. At the time of the sugar campaign there is a great demand for

labor in the sugar-producing sections, and the state railroads would sell excursion tickets to the laborer for less than the regular rates; but the landowners of other portions of Germany claimed that these special rates had the result of inducing the labor, which they would naturally employ, to leave them unless they paid higher wages—in effect these landowners claimed that the excursion tickets operated to take away from them their natural rights—and although it was admitted that the laborer secured higher wages and these wages resulted in a better standard of living and that the travel which the workmen got broadened to an extent their intellectual horizon, yet the Government finally yielded and stopped the practice of selling excursion tickets and restored the hard and rigid state rate.

This insistence upon the right to a market which proximity gives, this resistance to discrimination and favoritism shown by hauling at a low rate the merchandize of a community at a great distance so that it may compete in the same market with the nearby community, is also seen in the manufacture of iron and steel. And the effect of the recognition of the natural-right theory, the mileage theory, in Germany, resisted in vain by that Government, has been undeniably toward establishing a zone system of commerce, toward preventing Germany from becoming a common market, and to break it up into little principalities for the purposes of trade. And it is most striking and significant that the German Government, in order to escape from the consequences following its own exercise of the rate-making power upon railroads, expended millions of dollars upon canals connecting its rivers so that traffic might be conducted by private parties between remote parts of the Empire.

Waterways are to-day the vital currents of German trade, although wherever railroads are permitted to compete with water they secure the bulk of the traffic. This is proven by the vastly greater tonnage of export coal carried by railroad than by the Rhine. Traffic upon the railroads along the Elbe greatly exceeded the traffic upon that river, but after the Government assumed control the situation was reversed. The German Government therefore has expended vast sums of money in order to confer upon private parties the power to fix under the operation of natural laws the rates for long-distance traffic. There could not be a more striking example of the evils of government rate fixing than is afforded by the experience of that great and highly civilized country.

In France the rates are made by the Government, not by a political commission of seven men, as the bill before the House would result ultimately in establishing for this country, but by a bureau of thirty-three highly trained experts with a great staff of assistants, although France has barely a tenth of the mileage of the United States. The Government of France has a very large financial investment in its railroads and, as in Germany, it exercises to quite an extent the functions of proprietor as well as the regulating power of the nation when it fixes rates. You will find a similar condition in France to that which exists in Germany. The natural waterways, supplemented by canals built by the state, are the props which chiefly support industrial France. And you will find, as I have said, in both France and Germany freight rates at least twice on the average what they are in America, although the great item in the operation of the

railroad, the wages paid the workingmen, are on a scale less than half what the American railroads pay.

The French experts find it necessary to deviate from their ordinary rates, and in a single year 80 per cent of the traffic was carried at special rates. What would be the effect upon public opinion in this country if our national railroad Commission should yield to fair economic demands and permit, if they could do so under this bill, such a deviation from the regular rates?

In England the railroads are not owned by the nation, and the Government, with the conservatism toward private property which characterizes the British people, permits great latitude to the railroads, and they approach in cheapness of service and efficiency the railroads of the United States, although their rate is much higher and their average wage is much lower than in this country. In England, however, the Government established parliamentary rates which, as Mr. Ackworth says, were obsolete almost before they were enacted. They were maximum rates such as you propose to have created under this bill. The tendency has been for the railroads to adhere to the maximum rate or to approach it closely. The establishment of rates materially lower would be a confession that the maximum rates were unreasonably high and might lead to action by the Government reducing the maximum rate. In all of these countries we see a rigidity to the rates established by the Government, and we see, too, the lack of constant supervision of detail, due to the enormous task of revising the great mass of rates, and a lack of responsiveness to the temporary conditions of business which an army of traffic agents, scattered over the country at the sources of freight supply, would keep in touch with and fully recognize in the making of rates.

The Governments of Austria-Hungary and Russia absolutely fix their railroad rates, and substantially the same results are witnessed there as in Germany, only in a more exaggerated form. I have not alluded to Canada because its rate system has been in operation only a year, and so short an experience would be of little value. But even in that short time the commission have begun to readjust rates from the standpoint of distance and to operate as a protective tariff, and they have succeeded in classifying beans, which are carried in small quantities, with wheat which moves in train loads.

The experience of Australia, where the railroads are controlled by the government, is valuable. Her railroads are everything that the people of this country would not desire. Their operation throws a striking light upon one of the favorite theories of our own Commission—a theory that is entirely natural and would have been effective had the Supreme Court not intervened, and which would be effective under this bill.

Our railroads have made certain points, scattered all over the country, what are termed "basing points," and have given them a special rate slightly better than that to the communities immediately about them. This system results in building up centers of trade and distribution at different points in the country, and it results also in giving the localities around these centers lower freight rates, notwithstanding the claim that they are discriminated against, because it enables the railroads to consolidate their freight and haul it from the seaboard or other sources of supply to the center of distribution at greatly less expense, in perhaps 2,000-ton train loads. The

Australian system is hostile to the basing point because it adopts to an extent a mileage rate, as our Commission would be compelled to do, and what is the result? A road is built, say from Melbourne 100 miles into the interior, and at its terminus a town springs up which becomes a center for supplying the country about it and the still farther interior. But the road is afterwards extended, and the manufacturer or the jobber in the once flourishing interior town is obviously at a disadvantage with his competitor at Melbourne, because he has a freight rate from Melbourne and another freight rate when he ships his goods to the buyer. He must either retire from business or go to Melbourne, and the result is that the commercial and banking and great industrial business of Australia is done at the four or five ocean termini of the railroads. The freight trains from the seaboard centers peddle out small parcels of freight at a great number of points, and such distribution is enormously expensive.

The destruction of "basing points," so called, in the United States, would take away a great part of the business of Atlanta, Memphis, and Kansas City, and scores of other interior centers, and would transfer it to New York and Chicago and St. Louis. If you think our industry and trade should be centralized in a few great cities instead of being diffused throughout the States of the Union, then you will support this bill, because, if it permits the adjustment of relative rates, it is an admirable instrument to accomplish that purpose.

Then first-class passenger fares are lower in this country than in Europe, but if one travels third or fourth class he may sometimes travel more cheaply abroad than first-class here, and in Germany one may save by traveling fourth-class in a box car on a slow train. But if one traveled on a corresponding scale of luxury in the United States he would bill himself through and go as freight.

Now, what is the American system which, without any consideration worthy of a great economic subject and upon mere generalities, you are airily proposing in this bill to set aside for the policy which I have been describing? In this country the interstate rates have been made by the railroads with practically no check, so far as governmental interference is concerned. It has been the prime policy of the railroads to develop a vast continental traffic drawn at low rates and between the most remote sections of the country. It has been to make of America a common market. The "natural-right" theory has more than once been involved. The low long-distance rates brought the agricultural products of the West in competition with the farms of New York, New England, and Pennsylvania, in markets which, on the "natural-right" theory, belonged to the farmers of the last-named States. And while your lands have gone up enormously in value the farms of New England and the East have greatly decreased in value. Yet on the whole the East has benefited because it concentrated its energies upon manufactures and trade and the railroads took its products to the West at low rates in the cars which bore your produce East, and which would otherwise have returned empty.

If we had had since 1865 a railroad commission with the power in this bill to fix railroad rates it is a moral certainty that many now civilized portions of the West would be unsettled regions, and as a necessary consequence your great

cities would not be the magnificent affairs they are to-day. The East, relatively powerful, would have resisted the invasion upon its natural markets by the low long-distance rates, with the inevitable result that has been witnessed in Germany. There would have been a distance tariff, and a distance tariff would have held back the settlement of the far western lands for generations.

The Interstate Commerce Commission has more than once affirmed the "natural-right" theory, and if it is to pass upon the conflicting claims of sections it can not escape from that theory. The elevator and dock owners and great merchants of New York protested against a rate from the West to New York on wheat destined for export lower than the rate to that city on wheat for internal consumption. The low rate for the export wheat was directly for the benefit of the farmer, but it took from the men of New York certain profits that they claimed the "natural right" to have, because their city was the gateway to the Continent, and the Interstate Commerce Commission ordered that the rate on the wheat destined for export should be the same as that for New York. The question involved was of vital importance to the farmer, and it is significant that the railroads were fighting his battle, which the Commission decided against him in effect upon the natural-right theory. The Supreme Court supported the railroads and overturned the decision of the Commission.

The striking feature in the American railroad system, then, has been the remarkable development of the low long-distance rate which has made of the country a common market and has stimulated trade between its most remote parts. The American railroad rates, in the mass, are not the arbitrary fiat rates such as would be ground out by a governmental machine, but, in a sense, they are self-made rates, and result from the free play of commercial and industrial forces. Even such a differential as that established in favor of Baltimore and Philadelphia against New York and Boston, which would at first sight appear artificial, was the result of one of the fiercest and most expensive commercial wars ever waged upon this continent, and when a few months ago the Interstate Commission was called upon to arbitrate, under an agreement between the cities, as to this differential it reached the very conclusion that was the outcome of that war.

The enormous expansion following the civil war was succeeded by the severe financial crisis of 1873, and for a half dozen years the country was in the gloom of a profound depression. There were armies of unemployed in the factory cities of the East, vast numbers of immigrants seeking employment who had poured into the country during the years of its apparent prosperity. Our industrial collapse would have been even more serious and profound had it not been for the policy of our railroads. New lines had been opened up through rich areas, inhabited only by the buffalo and the wolf. But in spite of the fact that the price of wheat had fallen 30 per cent, the railroads established such low rates to the seaboard that the lands were quickly put under the plow, and a great portion of the surplus population of the East was transferred to the farms of the West. Nearly the entire wheat crop of some of the States beyond the Mississippi found a market on the other side of the Atlantic. Mr. Edward Atkinson, as exact an economic author-

ity as ever lived in America, estimated that the saving upon the transportation of wheat from the Mississippi to the Atlantic during the fourteen years succeeding 1873 amounted to 33 cents on every bushel. Suppose we had had a governmental commission at that time, when the East was politically the strongest section and held the dominant power. Is it not almost a certainty that they would have listened to the protest of the latter section against the disturbance of their domestic market in those depressed times, and that those now mighty and stable Commonwealths that lie beyond the Mississippi would have waited for that great development which the railroads forced upon them? Why, those great States are the very daughters of the economic American system of making freight rates. They would not have come into being under the system established by this bill, and yet they are now blindly clasping hands to strangle the mother who bore them. The working of natural laws and the unhampered genius of the enterprising American railroad men proved during that great crisis the salvation of the country.

The rate making of our railroads is done by an army of tens of thousands of men, picketing every part of the country. Often cars have to be returned empty over a long route. A rate that would pay the difference between hauling a car loaded and hauling it empty in such a case would pay the railroad. The traffic agent will often discover a commodity of low value in one part of the country that can be used in another part, and which, unless carried at a very low freight charge, can not be carried at all. The transportation will pay the owner of the commodity something; it will also pay the railroad, and the commodity will be used to advantage by a distant consumer. That traffic would be at once set in motion. The nicest curve, the strain of a swift train upon a bridge, the building of tunnels, can present no more technical questions to the engineer than are often faced by the thousands of traffic men who, in their eager search for tonnage, must consider rival markets and the relative demands of localities.

* The flexibility of this system, where rates are fixed by economic laws, is infinitely preferable to the wooden system established by this bill, where, after a rate has been determined, you walk off and leave it a fixed and immutable fact for three years, unless a decree can be obtained from an overworked Commission changing its decision and establishing a new rate. And by the time the authority would be conferred the necessity for a change of rate would probably have passed away.

The editor of the London Statist, perhaps the leading financial organ of the British Empire, in writing recently of a typical report—that of the American Great Northern Railroad—said the results shown in that report would fill the shippers of Great Britain with envy, in which country he declares that, notwithstanding the density of traffic, the people under tariffs directed by government have had very little reduction in a quarter of a century.

Gentlemen talk of throttled competition. You must remember that the most effective competition is not between two or more parallel railroads serving the same points, but between railroads connecting different sources of supply with the same market. The competition between markets has done more to reduce freight rates permanently in this country than the competition between parallel roads, including the injurious and spasmodic

"cutting" in rate wars. The rates from Chicago to New York compete with the rates from Chicago to New Orleans and, it may be, with the rates from Chicago to the Pacific. The lines from St. Paul to New York or Boston run in opposition to the steamships plying between South America and London or with the railroads that carry the wheat of interior Russia to the sea. The primary instinct of self-preservation will inspire railroads to protect the markets of the territory they serve. Every interest of private property impels them not merely to preserve, but to build up their communities. But here you propose to have a governmental agency step in and set aside the primary edicts of commerce and trade. It may be for this agency to say not that the railroad shall serve its own interests by serving the interests of its territory, but to say that the natural advantages of its community are not equal to those of a competing community a thousand miles distant served by another railroad, and that the latter community should have a relatively better rate. And it will doubtless be claimed that it has the power, in order to prevent what may be called discrimination between communities to readjust the rates.

Suppose the farmers of Vermont should contend before the Commission that they were only 200 miles from Boston, and that it was a destruction of their natural market for the agricultural products of the West to be brought 1,000 miles into Boston as cheaply as their own produce, and that their rate to Boston should be relatively reduced. What will your Government commission say to that? Or, suppose some iron-manufacturing locality in Pennsylvania should assert that the low rates on coal and pig iron to Worcester, in New England, was a discrimination against the rights of the former locality, what will your railroad commission say to that? It is inevitable that sooner or later, struggle as you may, you will repeat the experience of Germany and have a distance tariff. Mr. Ackworth, the leading English authority, speaking fifteen years ago of the effect of low rates to bring distant markets together and of the inevitable tendency of government rates to become distance rates, said if anyone "wishes to put an end to this state of things and to return as near as may be to the age of gold, when the Middlesex farmers had in the London cattle market the full advantage of their geographical position, he can not do better than devote his energies to securing a government control of railway rates." There is no reason why you gentlemen from the South and West should not have the mileage basis if you want it, but I shall do what I can—I fear much too little—to make you see just what you are voting for. If you want sooner or later to put an effective brake upon our progress, you will find no better way to do it than to vote for the policy upon which the pending bill embarks the country.

Then, the port-preference clause of the Constitution would prohibit the Commission from giving one port an arbitrary differential rate better than another port. Do away with these differentials and you strike a mortal wound at competition.

I have not understood that a popular government was adapted to carrying on to advantage, even on its own account, a business ordinarily conducted by private enterprise. From the time when the Pilgrims saved themselves from starvation only by abandoning the practice of raising corn in common and permitting each family to raise its own corn to the time when Massa-

chusetts built the Hoosac Tunnel for about thirty millions, which it afterwards sold for ten millions, or when Illinois completely bankrupted itself in building railroads and canals and conducting the banking business, the experiments of government on this continent in running business enterprises have uniformly been attended with great waste, if not uniformly with failure. But what may not be expected when a governmental agency manages business for which private individuals pay the bills? The pending measure not merely confers upon a commission the power of establishing a rate, but it makes them in important particulars general managers of the railroads.

It confers upon them authority to prescribe just and fair and reasonable regulations or practices in respect to transportation. It attempts to give them both judicial and legislative powers, making them now a little congress and now a little court, for the Supreme Court has held that it is for the judiciary to say what is a reasonable rate and for the legislature to prescribe what a future rate shall be. The latter is the least of the legislative powers conferred. The Commission may by an order destroy the prosperity of a section of the country and may, in effect, impose restrictions upon commerce between States which it was the prime purpose of the Constitution to prevent. With the Government fixing rates, constituencies would inevitably carry their grievances into politics. I believe it will be contended that your bill in substance confers the power to impose a rate for one section in its relation to the rate of another section. You will therefore have the different parts of the country knocking at the door of the National Government for favors, and intrigue and politics will rekindle the sectional jealousies that have now been happily allayed. This policy will again plant the seeds of discord in the hearts of the American people.

The railroads are not even permitted by this bill to give excursion rates between interstate points without first publishing a schedule thirty days in advance, or unless the Commission makes a special dispensation or a general regulation permitting it. If that does not make a legislature of the Commission, then the hitherto accepted notions of the function of legislation will need to be radically revised. The "Be it enacted by the Philippine Commission," which gives vitality to the laws of a people who are neither a citizen nor a foreign people, will be matched by the "Be it enacted by the Interstate Commerce Commission" in laws passed for the government of the people of the United States. If the making of railroad rates is a legislative function which can be delegated by calling it administrative, why may we not in a bill originating in the House confer upon a commission the power to fix tariff rates?

You propose to confer upon a mere human agency a practical task that would be superhuman. It is made their duty upon complaint to revise any and all the thousand millions or more freight rates in the country and an untold number of passenger rates. In addition to administrative functions, in defiance of the Constitution, you confer upon them, as I have said, judicial and legislative powers. They are to be vested with authority over a dozen billions of property and nearly a million and a half of employees. The enormous magnitude of the task is admitted, but there is to be an easy solution for it all.

We are to have a Commission made up of prodigies and paid splendid salaries. The President, at Austin, Tex., last April, before the two houses of the Texas legislature, gave his notion—and a lofty one it was—of the character of the men who should constitute the Commission. "They should not," he said, "be swayed by any influence whatever—social, political, or any other—to show improper favoritism to the railroads," and, "on the other hand, if the rate is unjustly attacked, no matter if that attack has behind it the feeling or prejudice of 99 per cent of the people," they will stand up against that attack. This is a noble ideal, but where are these paragons to be found? Even far higher officers than commissioners are not always found to be unresponsive to public sentiment. The President has undoubtedly selected for the commissions he has already filled the men whom he believed the best adapted to the work. Nearly all the members of the present Commerce Commission were appointed by him, and yet the Administration bill introduced in the House a year ago proposed to abolish this Commission absolutely. The first Canal Commission were paid magnificent salaries, and yet they were unceremoniously deposed from office in scarcely a year after the President had appointed them. And the present Canal Commission, even with the aid of the \$10,000 press agent, does not seem to command the admiring approval of the country. [Applause.] The President will be compelled to discover a new field if he finds the remarkable men that he undoubtedly desires to appoint. But, even if he should find them, he can not endow them with immortality, and some day another President will appoint their successors, provided the Board should not be abolished beforehand, and these successors may be made of common official clay. For my part, I doubt that you will get a better Commission than the one you now have. I have known the New England member from boyhood. He is a brilliant lawyer, and one whom it is not possible to corrupt. The chairman is an able and fair-minded man. The other members command the respect of the people who know them.

But the difficulty will be not so much with the men as with the system. They will be unable to perform those impossible duties, and then their work is near the political line, across which they will inevitably drift, and, as has been attempted already in some of the most enlightened States in the Union, some day, acting under pressure or under the spur of ambition or of a desire to "do things," some great schedule is liable to be broken into atoms, and the commerce and industry of one section may be arbitrarily transferred to another. I believe that it is vastly better for the interests of the country, so long as rates can be fixed under the operation of economic laws, to reject the artificial method proposed by this bill, which makes of a commission a sort of Providence with power to create one city and destroy another.

It is an extraordinary power—the power to fix railroad rates. It might be so exercised as to act as a tariff between States; to strike down trade between remote sections of the country; to dissipate the foreign and domestic commerce of New York; to cause the great city of Chicago, like many another exhalation, to sink back again in the marshes from which she sprang. And yet gentlemen contend that this power is so unimportant that we can call it "administrative" and delegate it.

As representing some of the people of New England upon this floor, I say to you that I believe they do not care to offer up supplications to any statutory deity at Washington for the right to continue to exist, but that they will bravely take their chances with those economic forces which, with a disastrous exception, have hitherto ruled. Having seen her commerce swept from the seas by the action of the national Government in imposing an utterly useless and unstatesmanlike embargo, New England can more safely reckon with the constant or slowly changing economic forces than to have her domestic commerce subject to the "theories of progress" of a commission, possibly of martinets and almost certainly of politicians. The prosperity of her people is vital to the existence of the great railroads which now serve them, but if that should be entirely disregarded, if the railroads should attempt to destroy themselves by destroying the communities which support them, the people of New England still have the courts, and if you will perfect their remedies the dangers that they will be under in even the extreme case I have supposed will be less than the dangers you are creating by the policy of this bill.

Economic writers divide American railroad commissions into two classes—the strong and the weak. The strong ones are those bristling with formidable legal powers and the weak ones have commonly powers of investigating and reporting facts and making recommendations. Mr. Charles Francis Adams, an admirable authority, says the strong commission means "the constable" and the weak one "public opinion." The difference in the effect upon its possessor of the authority to advise and the authority to command is strikingly illustrated by the so-called "strong" and "weak" commissions. The strong commissions, as a rule, are in antagonism with the railroads and often also with the courts which are compelled to intervene to set aside decrees essentially confiscatory. The weak commissions, having the power only to advise, base their advice upon rational and reasonable grounds. The best illustration of the weak commission is that of Massachusetts. Its power regarding rates is purely advisory. When a complaint is made, it investigates and reports, advising the rate which it deems reasonable, and I believe in every instance in the history of the commission its advice has been accepted by the railroads. I venture to say that the Massachusetts commission has done as much for the development of the railroad system and for the protection of its public as any State commission in the Union.

If you are seeking a model for a national commission, I do not know of a better model. The national commission has been most successful in those cases where it has acted somewhat upon the theory upon which the Massachusetts commission is constituted. Over 90 per cent of the complaints made to the national commission have through its influence been adjusted between the railroads and the complainants to the satisfaction of both parties. But in the cases in which the Commission has fulminated decrees as to rates it has accomplished very little for the public or the railroads. Of thirty-four decisions which have been carried to the courts it has been overruled in thirty-two cases and only successful in two. If you want to change the rate-making provisions of the present law, permit the Commission, as now, to declare a rate to be unreasonable and then let them, as in Massachusetts, suggest the rate that they deem rea-

sonable. If their suggestions are rational, they will have public opinion behind them and the railroads will be forced to comply; but arm them, as you do in this bill, with the terrors of the law, with the power to command railroads to make a rate or to fix a so-called maximum rate, with authority to promulgate little statutes, and you are sure to breed antagonism between the Commission and the railroads. Then confer upon them the powers proposed in a bill prepared by a very able member of the Senate, against every species of favoritism, let them proceed in the courts in the interest of individuals who have suffered by unreasonable rates or unfair practices of railroads, have the decision of these cases expedited, and it seems to me you will have made a much better solution of the railroad question than you afford in your bill.

Much could be accomplished by the equal enforcement of the laws already upon the statute books if those who enforce our laws are possessed by the unappeasable rage of justice. Sir, I have no sympathy with that vicious sentiment which would prosecute a man, not because he is guilty, but because he is rich, and that would make our prosecuting offices the refuge of every demagogue and mountebank. But great as is our country, it is not and it never will be great enough to shelter two kinds of law, the one for you and me, for the general mass of American citizenship, and the other for some executive grand duke.

A railroad rate is a fluctuating thing in the cost of its production, and from an economic standpoint no law can fairly fix a future rate which does not fix those material elements upon which the rate depends. As was pertinently asked by Mr. Benton, an able lawyer of my own State, if the State fixes the price that railroads are to receive for transportation, would it fix also the prices that go into the making of the cost of that transportation?

Will it fix the price of coal and ties and iron, the wages of labor, and those other varying elements of the cost of service, all of which absorb by far the greater part of the rates they receive? What prudent man would care to conduct a business with the Government fixing the price at which he should sell his product and leave him subject to the laws of supply and demand for everything he was compelled to buy? A rate that is reasonable to-day may be unreasonable to-morrow simply from the standpoint of the cost of production, and, under the present law, what is a just rate can always be determined at any given time by a court and jury whenever an individual claims that an unreasonable rate has been exacted. The question of unreasonableness can be tested in the courts. The juries will not hesitate to do as they have done in England, and the public will be protected. Is that not far more rational than the method you propose in this bill?

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

Mr. McCALL. If I can get through in the limited time which I have, at the end I shall be very glad to yield to the gentleman.

I can not find an economic authority worthy of the name who, prior to one year ago, supported the theory of Government-made rates for this country. After the President had promulgated the notion of rate making as a cure for rebates and discriminations, there appeared a crop of economists whose names had previously escaped the attention of the country, each with

a patent nostrum guaranteed to work a cure on the President's plan. It was the heyday of the economic quack. We have even had it proposed, on high authority, that if it were discovered that one of many competing railroads, say, between Chicago and New York, had given low, secret rates, those rates should immediately be declared to be the reasonable rates although they would be forced upon the competing railroads, who were entirely innocent, and might be made bankrupt by them. That is a fair illustration of some of the economic theories that have been evolved upon this question.

It is said that the sentiment of the shippers is behind this rate-making proposition. With the exception of isolated individuals, whatever sentiment has been expressed in favor of this policy did not appear until it was proposed fourteen months ago and was authoritatively put forth as the remedy for the evils of discrimination and the giving of rebates. Even then, few complaints were made that the rates were too high, but that they were unequal, and on the assumption that the proper remedy for that inequality was in the fixing of rates by the Commission, the proposition was supported by business organizations. But the more the plan was studied the less it received the approbation of the business men of the country. The first serious opposition came at the convention of shippers called by Mr. Bacon, the promoter of this movement. The organizations in that convention were those which he himself had selected and the most important of them, and probably the majority of them, were opposed to his scheme and were therefore ruled out of the convention. It is said that those protesting delegations were packed by the railroads. But what shall be said of the great national convention of the boards of trade of the country, the most representative convention of business men that is held upon this continent? This convention, held in the city of Washington during the last month and only a year after this new gospel had been preached, adopted a resolution with regard to rate fixing where the proceeding was to begin with the courts and end with them and was, in effect, a most emphatic condemnation of this policy.

That resolution was adopted by a vote of ten to one of the delegates assembled. And let me say to Members on the other side of the House that this rate-fixing policy found no more uncompromising opponents in that convention than were found among the delegates from the great cities of the South. They saw its viciousness not merely from the traditional Democratic standpoint, but also from the position of self-interest. They saw the South standing exultant upon the threshold of a brilliant era of prosperity, just entering upon her career of industrial glory, and that the railroads will do for her what they have already done for the North and West unless the capital which would naturally be invested in them should be frightened away by this populistic hullabaloo in which you are joining.

Mr. ADAMSON. May I interrupt the gentleman?

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Georgia?

Mr. McCALL. Certainly.

Mr. ADAMSON. I do not wish to injure the gentleman by taking his time, but I will endeavor to make reparation. I know the gentleman desires to be correct, therefore I desire to make a correction. I understood the gentleman a few moments

ago to declare that under this law excursions could not be permitted without taking time in going before the Commission. I wish to call the gentleman's attention to section 22 of the "act to regulate commerce." It makes a provision for excursions as well as for governmental and charitable purposes.

Mr. McCALL. It may be that I am mistaken, but I think that it is provided that schedules of all rates and fares shall be printed thirty days before they are put in force. That would operate by implication to change the existing law.

I willingly agree that my friend has studied the bill more carefully than I have. But that is my conclusion.

Mr. ADAMSON. I do not think there was any intention to alter that special section.

Mr. BARTLETT rose.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. McCALL] yield to the gentleman from Georgia [Mr. BARTLETT]?

Mr. BARTLETT. May I be permitted to say that in this bill there is a distinct provision that none of the provisions of the act of 1887, unless repealed or altered by this bill? The saving clause of this particular bill is that it saves to the Commission every right and power they had under the act of 1887.

Mr. McCALL. It covers that particular point of that particular subject in the act of 1887, and what the gentleman says upon that point is all right.

Mr. BARTLETT. We do not cover the point.

Mr. McCALL. I beg the gentleman's pardon. I think the bill very clearly covers the point of supplying the schedules for rates for a period of thirty days before they are put in force.

Mr. BARTLETT. That is the act of 1887 also.

Mr. McCALL. Yes; I may be mistaken, but I am still of the opinion strongly in my reading of the bill that I am correct. I thank the gentleman for calling my attention to the point.

It is contended that the policy of national rate making is necessary in order to avert governmental ownership. Either governmental ownership is an evil or it is not. If it is a wise policy, we should embark upon it, but if it is an evil, the way to avert it is certainly not to take the first long step from economic rectitude that lies in its direction. Some very vicious policies have threatened our country and have been made dangerous by our taking the first step as a compromise. That is true with reference to inflation. It is emphatically true with reference to the coinage of silver, when the reason was given for taking repeated steps in coining or buying that metal that they were necessary to avert free coinage, until finally we had thousands of tons of silver stored in the Treasury, and it was only by an almost unexampled act of Presidential heroism that we did not go to the silver standard by the mere force of gravitation.

You do not propose to have the Government take the railroads by this bill, but you propose to have it take away from the control of the owners their only beneficial interest, which is the rate. It is said by the advocates of the bill, for purposes of prejudice or extenuation, that the securities of our railroads are bountifully watered. If true, that would be a relevant matter, perhaps, for the courts to consider when a shipper claimed that an unreasonable rate had been exacted. Certainly it furnishes no argument for the passage of this bill. It must be considered as a matter of denunciation and indulged in for

the purpose of exciting prejudice. But let us see what the fact is. There is no higher authority upon the subject of railroads in the United States than President Hadley, of Yale, who first won distinction as professor of railroad economics in that university.

Last year he made the statement in a letter published in the Boston Transcript—and the letter was by no means generally in favor of our railroads—that the railroads of the country could not be duplicated for \$50,000 a mile. In other words, counting their franchises as of no value, the material and labor necessary to duplicate them would be in the aggregate not less than ten and a half or eleven billion dollars, which is substantially the amount of their outstanding capitalization. Probably it would cost the Government, if it undertook to duplicate the work, twice that amount, and that would not include the enormous sums that have been thrown away in reconstruction, where, in order to do away with curves and grades, much original construction has been abandoned. If you count the franchises as nothing—and your railroads can not be duplicated to-day by private enterprise for less than substantially the amount of the capitalization—how can you say that there is any material amount of water in their securities? In the capitalization of some railroads the nominal capital is not equal to the amount actually paid in. In some cases the stock was sold by the railroad at a high premium and the premium went into its treasury. Undoubtedly there are cases where railroads were built over a new country at great risk, where business was not developed, and the men furnishing the capital received stock bonuses. These bonuses were offered openly in order to attract capital necessary for the work. I fancy you will hardly deny that the investor was fairly entitled to a chance for extra profit to pay him for the risk he assumed. If the railroad should turn out to be unprofitable, he might lose his entire investment. The man who paid \$2 an acre for his land saw it increase, in many cases, by the building of the railroad, by the jeopardy of the money of other men, to \$100 an acre. Are we to call the \$98 water? Gentlemen are not heard to advance that theory.

Mr. MANN. Will the gentleman permit me a suggestion in that line?

Mr. McCALL. With pleasure.

Mr. MANN. The total capitalization of the railroads of the United States is about thirteen billion dollars.

Mr. McCALL. I think the total outstanding capitalization is less than twelve billions.

Mr. MANN. The total amount of stocks and bonds is something over thirteen billion dollars, with a railroad mileage of over two hundred thousand miles. In Great Britain, together with continental countries, the total amount of mileage is considerably less than two hundred thousand miles, with a total capitalization of over eighteen billion dollars, so that the amount of capital we have invested per mile in this country is far less than the amount of capital per mile invested in the roads owned by the European governments or by private ownership there, notwithstanding the prevalent opinion that everything here is watered and everything there is not watered.

Mr. McCALL. I am very much obliged to the gentleman for his interruption, and it only adds another excellent authority to

the authority whom I have already quoted, President Hadley, of Yale University.

Then it is said that money bonuses and land grants were given to encourage railroad building, and in listening to the very eloquent speech of the gentleman from Michigan on Tuesday I at first thought he was entirely overlooking the fact that there had been any material investment of private capital. That bonuses were given does not now impress me as of the greatest consequence, because the Government, or the people who gave them, did so from the standpoint of their own self-interest, and in many cases they profited richly by the building of the railroad; but I think it fair for gentlemen to correct the order in which they mention the sources of supply of capital to build railroads. I believe* I am entirely within the truth when I say your bonuses and grants from national and local governments and individuals would not all combined pay 5 per cent interest for a single year upon our railroad capitalization.

There is no species of property that deserves the grateful consideration of Congress more than the railroad property, for it has conferred incalculable benefits upon the country. Without the railroads our population would be confined to the seaboard and the water courses. Three-fourths of the country would be unsettled and uncivilized. But largely as a result of daring investments that have been made we have to-day, with one-twentieth of the population of the globe, a valuation of more than a hundred billions, or one-third of the entire capital of the globe.

Mr. SIBLEY. Will the gentleman pardon an interruption? The gentleman speaks of one-twentieth population. I think it is important that you also show that with one-twentieth population we are furnishing one-third, or thirty-three and a third per cent, in round numbers, of the entire food products of the world.

Mr. McCALL. Yes.

The great factor in the advancement of America has been the free play given for individual action. If at the outset we had tied up the energies of men by statutes and removed the spur of ambition from the inventor, the railroad builder, and the man of business, the progress of our country would have been far less marked than it has been during the last century, and the progress that the rest of mankind has gained under the influence of our example would also have been less. The American railroad managers, not through altruism or philanthropy, but by their individual genius, called into play by the beneficent influence of our free institutions, have been working out the destiny of the American people. They have helped powerfully to mold a vast and naturally diverse continent into one people. They have, in a double sense, bound together the most remote parts of the country by cords of steel. They have interwoven our interests and our hearts inextricably with the meshes of the iron net. And if they are to receive your denunciation instead of your gratitude, then there is no species of property in the country which may not be plundered by law. There is a prescription that will almost infallibly work in forcing through such legislation. Fiercely denounce some Wall street magnate by name and then add some lurid declamation about

insurance, and you could successfully rob any business in the country except farming, and if farmers were not so numerous they too would not escape.

Mr. ADAMSON. Will the gentleman allow a question?

Mr. McCALL. Certainly.

Mr. ADAMSON. Do you suppose the law would allow any farmer in this country who would be guilty of such an action to escape the penitentiary?

Mr. McCALL. I trust the gentleman did not think I was reflecting upon the farmer.

Mr. ADAMSON. You are claiming immunity for the others.

Mr. McCALL. I was applying your prescription, that was all.

Mr. ADAMSON. My prescription simply requires those who are powerful to do right—to practice equality and justice—as well as the other classes of the people.

Mr. McCALL. That is a magnificent generality upon which you could put any proposition through in legislation.

Mr. ADAMSON. We have not indulged in generalities, but we have provided some magnificent specialties in this bill.

Mr. McCALL. We often make a mistake, I venture to say, in thinking that there is a genuine public opinion. Quite too often here we think there is a raging popular sentiment when it is only that we have a tendency of blood to our heads. The people do not send us here to enact every popular noise into law. [Applause.] We often make a mistake, I venture to say.

We have seen, then, two clearly defined systems of rate making—that of France and Germany and other foreign countries and that of America. We have seen that the foreign system, although put in force in countries having dense populations and with a relatively low scale of wages has led to high rates and restricted trade, and that any extensive commerce between portions of these countries remote from each other has only been made possible by rivers and canals. On the other hand, we have seen the American system put in force over a sparsely settled area and, although the wage scale has been more than twice that abroad, the average freight rate has been only half as great, and we have seen the most remote parts of a continent trading with each other, the whole country made a common market and a commerce pouring over our railroads not far in volume from the combined railroad commerce of all the rest of the world, an interstate commerce so vast as to make even our prodigious foreign commerce seem insignificant. And you are proposing by this bill to strike down the American system under which these marvels have been produced and substitute the foreign system. Measuring my word and speaking to the exact relation between the system you are overturning and the system you are adopting I say that I believe you are about to vote for the most un-American proposition ever submitted to an American Congress. The fundamental question here, stripped entirely of sentiment, is whether we shall continue the American system, where the rates have inevitably sprung from the action of economic forces, or whether we shall adopt the expensive foreign system of government-made rates and have the management of your railroads thrown into politics, as if there were not already enough in this country upon which the politician can lay his felonious paws. [Applause.]

The Government may, if it desires, provide and operate at its own cost highways over which its citizens may travel and move their property, but it has not been a commonly exercised function to require citizens, at their own cost, to carry the persons and property of other citizens. It certainly has been a no less common function of government to fix the price of bread and to establish public granaries for corn. And if either of these functions must be exercised, it should be under the most careful safeguards or it will be attended with grave danger. Burke says that certain of the Pope's territories, being obliged to furnish Rome and the State granaries with corn, were utterly ruined, and then he adds: "Having looked to the Government for bread, they on the first scarcity will turn and bite the hand that fed them. To avoid that evil, Government will redouble the causes of it." The philosophy of Burke's illustration applies to the pending bill. It is not the least weighty of the objections against it that it will tend to corrupt the American people. It implies no defamation, but only a slight knowledge of human nature to see that you are holding out to them a temptation dangerous to their morality and dangerous also to the rights of private property. Your railroad securities are held in a comparatively small portion of the country, and the great mass of people scattered over the rest of the country, with little interest of ownership, will be interested in cheaper transportation. Will not the pressure of the greater mass of what you call public opinion have the same effect upon the national Commission as it has had upon State commissions, against whose rates the courts have felt compelled to intervene? If so, you must remember that the constitutional safeguards against the National Government are fewer and less effective than against the State governments.

Can anyone justly say, in view of the history of our railroads and the splendid service they are rendering, that the time has arrived for our Government to embark upon so venturesome a policy? The great organizations of labor, with their admirable sense of self-preservation, clearly see the danger.

Your bill pretends to grant a judicial review of orders of the Commission fixing rates, but it adopts the device of permitting this to the railroad on the peril of its life. If the railroad avails itself of your inestimable privilege of review and the courts decide in its favor, it costs the Government nothing and the railroad has the enjoyment of its former rate; but if, as has happened in two cases out of thirty-four, the court sustains the Commission, the railroad, if it has not adopted the Commission's rate, which may prove to be confiscatory, must pay a penalty to the Government of \$5,000 per day, multiplying each day by the number of times the rate is enforced, a penalty that in some cases would mount into the millions. Do you call this a fair judicial review? Would there be any taint of a "square deal" in saying to a man whom a police justice had fined, "Yes; the justice may be wrong, as justices usually are, and you may appeal; but if the higher court happens to sustain the justice, you shall lose your life?"

Mr. ADAMSON. May I interrupt the gentleman?

Mr. McCALL. Certainly.

Mr. ADAMSON. Does not the gentleman think that the carriers can avoid all such risks by putting in force the rates fixed while they litigate to set them aside?

Mr. McCALL. Certainly; and that illustrates the point. You are trying to coerce the carrier on penalty of his life.

Mr. ADAMSON. But if a man is going to the penitentiary he may appeal without asking a supersedeas, then if he does not win he saves that much time.

Mr. McCALL. There is no such proceeding in the bill, as I understand it.

Mr. BARTLETT. The gentleman certainly does not understand that there is no provision in this bill permitting an interlocutory order by the court to stay the enforcement of the order until it can be adjudicated? This bill provides for the interlocutory order.

Mr. McCALL. I think it is doubtful if that is in. Evidently the gentleman's opinion is different from the opinion of his colleague who just interrupted me. I understood him to say the railroad might yield and adopt the rate.

Mr. ADAMSON. I suggested that he might litigate the rate without asking a supersedeas.

Mr. BARTLETT. I started to say it is true that it says unless it is stopped by an injunction. I apprehend that the gentleman must know and believe as a lawyer that it is not in the power of Congress to prevent a railroad from appealing to the court and the processes of the court until the questions have been decided.

Mr. McCALL. In my opinion it is entirely clear that that is the purpose of the bill.

Mr. BARTLETT. I wish I could make it accomplish that.

Mr. McCALL. There may be evidence of a sense of justice in all this, but, if so, it is the sense of justice not of man, but of the hyena and the bear. The philosophy of it is that you may run for your life, but you are eaten if you stand, and you will be eaten if you are caught. Compared with the scheme of this bill there is a certain nobility in the policy of government ownership, wrong as I believe that policy to be. You carve our magnificent railroad system not as a feast fit for the gods, but hew it as a carcass fit for hounds.

We pass laws here with an easy optimism and a profound faith that, so great are the American people, their prosperity is proof even against vicious government. And so the two great parties, in playing the game of politics, sometimes vie with each other in pandering to the popular passion of the hour, and court the roar of the galleries rather than history's approved voice. Undoubtedly the splendid strength and youth of the American people are well-nigh unconquerable, but no state was ever yet so great that a persistence in evil courses could not lay it low. We may presume too far. If we are guilty of reckless and impulsive action here we may wreck the nation. If you will pardon an old fable: As the boy Phaeton, driving the horses of the sun, but lacking Apollo's darting glance and unerring touch of rein, did not follow the safe middle course, and thus wrought havoc to both the earth and sky; so by impulse and unsteadiness in driving this Washington chariot of ours, now steering too high and now too low, we may put our American constellations to flight, dry up the courses of our iron rivers, and make of our fertile prairies the sands of another Libya. [Applause.]

In some remarks which I submitted on this floor one year ago upon a similar measure I dwelt upon what I regard as much



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more important aspects of the proposed legislation than its economic features. I shall not repeat what I then said, but content myself with the barest reference. This bill makes an enormous contribution to what I regard as an evil of the times—the steady encroachment of the legislature upon liberty. Our boasted American freedom is being construed to mean the power to weld statutory fetters upon the individual—to impose upon our own selves a species of slavery. We sometimes say that we are restraining the individual in the interest of the other eighty millions, and we thus take away the rights of every individual man in the whole mass and sacrifice liberty to a mere abstraction. This is a condition abhorrent to the idea of the founders of the Republic, who knew that men had suffered as greatly from too much as from too little government; that they had thousands of times been punished by law for actions essentially virtuous, and so, taking care to safeguard that high kind of liberty which would protect the individual against the encroachments of the Government, they set our State upon the middle course that lies between anarchy and despotism. This tendency to too much government is not confined to one party, for I have observed that gentlemen who delight most in quoting the immortal Jefferson are sometimes the fondest of imposing these fetters upon the people. The aggregate achievement of individuals has made America. To my mind, American freedom is individual freedom. Give men as much liberty as you can consistently with order and under the stimulus of freedom and order and the right to enjoy what they accomplish and what they gain this nation will keep magnificently moving on.

And then there is centralization. At the rate we are now moving it will not be long before we regulate everything and everybody from Washington. You can not govern the whole universe from a single point and have a shred of liberty survive.

Instead of chasing every will-o'-the-wisp that shows itself upon somebody's horizon, let us then guide ourselves by the great first principles of the American Government. And to return to this bill, you will have, in my opinion, a better railroad system and a better people if you safeguard in the courts the fundamental right of every man to a reasonable and equal rate and permit those rates to respond, as they have hitherto, to economic forces. In the conditions existing to-day I believe the people would shrink from governmental ownership, because of the expense and danger incident to governmental management. But that expense and that danger would certainly not be less when you make our Interstate Commission general managers of railroads built and owned and operated at the risk of private capital. [Loud applause.]